

EXHIBIT B

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 5

IN THE MATTER OF:) ADMINISTRATIVE ORDER ON CONSENT
)
World Kitchen, Inc.) U.S. EPA Docket No: RCRA-05- 2002-0010
359 State Avenue, Ext. N.W.)
Massillon, Ohio 44648-0560)
)
EPA ID#: OHD 045 205 424) Proceeding under Section 3008(h) of the
) Resource Conservation and Recovery Act,
and) as amended, 42 U.S.C. § 6928(h).
)
American Home Products Corporation)
Five Giralda Farms)
Madison, New Jersey 07940)
)
RESPONDENTS.)
_____)

I. JURISDICTION

1. The Administrator of the United States Environmental Protection Agency ("U.S. EPA") is issuing this Administrative Order on Consent ("Order") to World Kitchen, Inc. ("WKI") and American Home Products Corporation ("AHP") under Section 3008(h) of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(h). The Administrator has delegated the authority to issue orders under Section 3008(h) of RCRA to the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5.

2. WKI owns and operates a facility that manufactures cookware at 359 State Avenue, Ext. N.W., Massillon, Ohio (the "facility"). The property on which the facility is located is triangular in shape and occupies approximately 13 acres of land. It is bordered to the north by Newman Creek, on the west by the Penn Central Railroad and on the east by the Baltimore and Ohio Railroad. The facility began operations in 1945 and currently manufactures pressed and coated non-stick bakeware. The facility was previously owned and operated by BKCO Housewares, Inc. ("BKCO"). AHP was BKCO's corporate parent.

3. WKI and AHP agree not to contest U.S. EPA's jurisdiction to issue this Order and/or to enforce its terms.

4. WKI and AHP waive any rights to request a hearing on this matter pursuant to Section 3008(b) of RCRA and 40 C.F.R. Part 24, and consent to the issuance of this Order

RECEIVED
REGIONAL HEARING
CLERK
02. AUG 22 PM 3:05
U.S. ENVIRONMENTAL
PROTECTION AGENCY
REGION 5

without a hearing under Section 3008(b) of RCRA as a Consent Order issued pursuant to Section 3008(h) of RCRA.

5. WKI and AHP do not admit the validity of or responsibility for any factual or legal conclusions or determination stated herein, and do not admit any violations of, or liability under, federal, state, local or common law, or any other liability of any kind. WKI and AHP do not admit the existence of any actual or potential danger, hazard, or harm to any person, property, political entity or agency, the environment, or the public health or welfare. WKI and AHP agree that this Order shall be admissible as evidence in any proceeding brought by U.S. EPA to enforce this Order or to enforce the implementation of any corrective measure deemed necessary by U.S. EPA under the terms of the Order. However, all three parties agree that this Order shall not constitute or be construed as an admission of any kind, or be admissible as evidence of an admission of any kind, on the part of WKI or AHP, in whole or in part, in any other administrative or judicial proceeding.

II. DEFINITIONS

6. This Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k, and the regulations promulgated under RCRA unless otherwise specified.

7. "Day" means a calendar day unless expressly stated to be a business day. "Business Day" means a day other than a Saturday, Sunday or Federal Holiday. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or Federal Holiday, the period will run until the end of the next business day.

8. "Facility" means all contiguous property as described in paragraph 2, above, under the control of the owner and/or operator.

9. "U.S. EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

III. PARTIES BOUND

10. This Order applies to and binds U.S. EPA, WKI and AHP and their agents, successors, assigns, trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of WKI or AHP. WKI or AHP will be responsible for and liable for any violations of provisions of this Order to which they are subject, regardless of their use of employees, agents, contractors, or consultants to perform work required by this Order.

11. No change in ownership or corporate or partnership status relating to the facility will alter the obligations of WKI or AHP under this Order; provided however, that with the express prior written consent of U.S. EPA, WKI or AHP may assign one or more of their obligations under this Order. Any conveyance of title, easement, or other interest in the facility, or a portion

of the facility, will not affect WKI's or AHP's obligations under this Order. WKI will give written notice of this Order to any successor in interest prior to transferring ownership or operation of the facility or a portion thereof and will notify U.S. EPA and AHP in writing within five days of the transfer. This written notice will describe how WKI has assured that, despite the transfer, all institutional controls required now or in the future for the facility will be implemented and maintained and all other obligations of WKI under this Order fulfilled. WKI shall condition any transfer of ownership or operation of the facility or any portion thereof, and any lease of any portion of the facility upon which activities called for under this Order may be conducted, upon the agreement of any such transferee or lessee to comply with the obligations to which WKI is subject under this Order. No such agreement shall alter WKI's obligations under this Order. This paragraph will not apply if U.S. EPA, WKI and AHP agree that this Order has terminated as to the facility or any relevant portion of the facility, or if this Order has otherwise terminated pursuant to Section XVII of this Order.

IV. DETERMINATIONS

12. After consideration of the Administrative Record, the Chief, Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division; U.S. EPA Region 5 has made the following conclusions of law and determinations:

- a. WKI and AHP are "persons" within the meaning of Section 1004(15) of RCRA.
- b. WKI is the owner or operator of a facility that has operated under interim status subject to Section 3005(e) of RCRA.
- c. Certain wastes and constituents found at the facility are hazardous wastes and/or hazardous constituents pursuant to Sections 1004(5), 3001 of RCRA and 40 C.F.R. Part 261.
- d. There is or has been a release of hazardous wastes or hazardous constituents into the environment from the facility.
- e. The actions required by this Order are necessary to protect human health or the environment.

V. PROJECT MANAGER

13. U.S. EPA, WKI and AHP must each designate a Project Manager and notify each other in writing of the Project Manager selected within 14 days of the effective date of this Order. Each Project Manager will be responsible for overseeing the implementation of this Project. The parties must provide prompt written notice whenever they change Project Managers.

VI. WORK TO BE PERFORMED

14. Pursuant to Section 3008(h) of RCRA, WKI and AHP agree to and are hereby ordered to perform the actions specified in this section, in the manner and by the dates specified herein. WKI and AHP represent that they have the technical and financial ability to carry out corrective action at the facility. WKI and AHP must perform the work undertaken pursuant to this Order in compliance with RCRA and other applicable federal and state laws and their implementing regulations, and consistent with all relevant portions of U.S. EPA guidance documents applicable to the work to be performed under this Order. This guidance potentially includes, but is not limited to, the Documentation of Environmental Indicator Determination Guidance, Use of Institutional Controls in the RCRA Corrective Action Program, and relevant portions of U.S. EPA's risk assessment guidance. All work undertaken pursuant to this Order shall be performed in a manner consistent with the Scope of Work in Attachment 2 to this Order and incorporated herein by reference.

15. WKI and AHP must implement the remedy selected in U.S. EPA's April 23, 2001 Final Decision in accordance with the Scope of Work in Attachment 2 and as identified below. The components of the selected remedy include:

- a. Air sparging of shallow groundwater and collection using soil vapor extraction (to be implemented by AHP);
- b. Extraction of contaminated groundwater in the bedrock aquifer and treatment by air stripping (to be implemented by AHP);
- c. Implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility (to be implemented by AHP);
- d. Well permit restrictions (to be implemented by WKI);
- e. Institutional controls to restrict the facility to non-residential use only (to be implemented by WKI); and
- f. Soil vapor extraction to treat contaminated soil (to be implemented by AHP).

16. A detailed schedule to construct and implement the selected remedy required by paragraph 15a., b., c., and f., and to submit a Final Remedy Construction Completion Report is set forth in the attached Scope of Work.

17. Consistent with the attached Scope of Work, AHP must complete the items identified in paragraph 15.a., b., and c., above, including but not limited to, demonstrating that

exposure.³ The term "residential activities" shall include, but not be limited to, the following:

- a. Single and multi-family dwelling and rental units;
- b. Day care centers and preschools;
- c. Hotels and motels;
- d. Educational (except as a part of industrial activities at the facility) and religious facilities;
- e. Restaurants and other food and beverage services (except as a part of industrial activities at the facility);
- f. Entertainment and recreational facilities (except as a part of industrial activities at the facility);
- g. Hospitals and other extended care medical facilities (except as a part of industrial activities at the facility); and
- h. Transient or other residential facilities.

The term "industrial activities" shall include manufacturing, processing operations and office and warehouse use including, but not limited to, production, storage and sales of durable goods and other non-food chain products and parking/driveway use.

23. WKI must restrict activities at the facility that may reasonably result in human exposure to soil at unacceptable risk levels.⁴ The point of compliance for restricting activities is at any point where direct contact exposure to soil may reasonably occur.

24. If WKI cleans up contaminated soil at the facility to the residential soil performance standards for human exposure and demonstrates to U.S. EPA that these standards have been achieved, WKI will no longer be bound by the restrictions in paragraphs 22 and 23.

25. WKI must restrict the use of the facility for any activities that may interfere with a remedial action, operation and maintenance, monitoring, or other measures necessary to assure

³ The residential soil performance standards for human exposure to contaminants of concern at the facility are found in Table 3 of Attachment 1 to this Order.

⁴ The industrial soil performance standards for human exposure to contaminants of concern at the facility are found in Table 2 of Attachment 1 to this Order.

the groundwater performance standards¹ or U.S. EPA-approved alternative corrective measures for groundwater have been met.

18. Consistent with the attached Scope of Work, AHP must complete the item identified in paragraph 15.f., above, including but not limited to, demonstrating that the soil performance standards for contaminated soil subject to soil vapor extraction² or U.S. EPA-approved alternative corrective measures for contaminated soil are met.

19. After AHP determines that groundwater performance standards or U.S. EPA-approved alternative corrective measures for groundwater have been attained at the facility, AHP must submit written reports to U.S. EPA for review and approval in accordance with the attached Scope of Work. After AHP determines that soil performance standards for contaminated soil subject to soil vapor extraction or U.S. EPA-approved alternative corrective measures for contaminated soil have been attained at the facility, AHP must submit written reports to U.S. EPA for review and approval in accordance with the attached Scope of Work.

20. AHP must continue to stabilize the migration of contaminated groundwater. This includes maintaining any corrective measures necessary to stabilize the migration of contaminated groundwater. Groundwater monitoring described in the attached Scope of Work must be conducted to confirm that any contaminated groundwater above the groundwater performance standards in Table 4 of Attachment 1 remains within the original area of contamination. U.S. EPA will consider AHP in compliance with the requirements of this paragraph if groundwater elevation contour maps of the water-bearing units at the facility, as prepared by AHP using groundwater monitoring data collected in accordance with the Scope of Work, show that groundwater continues to flow inward toward production wells W-1 and W-10.

21. WKI must not allow water from any existing wells at the facility to be used for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation until the groundwater performance standards specified in Table 4 of Attachment 1 to this Order are achieved. WKI must also not allow the installation of any new water wells for drinking, bathing, washing, or other human contact purposes or for livestock, farming or irrigation on this property until the groundwater performance standards specified in Table 4 of Attachment 1 to this Order are achieved.

22. WKI must not allow any residential activities at the facility for as long as soils at the facility remain contaminated above the residential soil performance standards for human

¹ The groundwater performance standards for contaminants of concern in groundwater at and from the facility are found in Table 4 of Attachment 1 to this Order.

² The soil performance standards for protecting groundwater at the facility are found in Table 1 of Attachment 1 to this Order.

the effectiveness and integrity of the remedy to be implemented pursuant to this Order. Such restrictions include, but are not limited to:

- a. Pumping of groundwater that impacts the effectiveness of the on-site pump-and-treat system in maintaining an inward groundwater gradient from the facility boundary to the two active industrial water wells. WKI must also notify adjacent landowners, and affected state and local governments of the pump-and-treat groundwater remedy at its facility. WKI must also use due diligence to detect any current and/or future off-site groundwater pumping activities that may (i) impact AHP's ability to prevent off-site migration of contaminated groundwater from the facility or (ii) impact the inward groundwater gradient from the facility boundary toward its two pumping industrial water wells and promptly notify U.S. EPA, AHP and appropriate state and local governments if it becomes aware of such activities. Due diligence shall include, but is not limited to, a semi-annual review of available State and local records pertaining to (i) releases of hazardous substances, pollutants, or contaminants to the environment, and (ii) groundwater well installation permits, and construction project de-watering permits, and increases in well pumping rates associated with activities within a 0.50-mile radius of the facility. WKI shall provide AHP written notification of the results of its review of these records by January 15 and July 15 of each year during which this Order is in effect, unless U.S. EPA and AHP agree to an alternate schedule; and
- b. The installation, construction, removal, or use of any wells or the excavation of any soil within areas exceeding soil cleanup goals as designated by U.S. EPA in its 12/13/2000 letter to EKCO except as approved by U.S. EPA as consistent with this Order.

26. WKI must record with the Office of Recorder, Stark County, Ohio, a deed notice in the chain of title for the facility which, at a minimum, includes the restrictions specified in paragraphs 21 through 23 and paragraph 25 of the Order. Within 45 days of the effective date of this Order, WKI must submit the notice to U.S. EPA for review and approval. Within 15 days of U.S. EPA's approval, WKI must record the deed notice. Within 30 days of recording the deed notice, WKI must provide U.S. EPA with a certified copy of the original recorded notice.

27. Within 90 days of the effective date of this Order, AHP must submit to U.S. EPA for review and approval an estimate of the cost for AHP to assure completion of the work to be performed pursuant to this Order. Within 30 days of U.S. EPA's approval of the cost estimate, AHP must provide financial security, in the amount of the cost estimate, in one of the forms permitted under 40 C.F.R. § 264.145 (modified to replace the terms "post-closure" and "closure" with "corrective action" and referencing this Order, as approved by U.S. EPA). After U.S. EPA approval of the Final Remedy Construction Completion Report, AHP may submit to U.S. EPA for review and approval a revised estimate of the cost for AHP to assure completion of the

remaining work to be performed pursuant to this Order. Upon approval of the revised cost estimate by U.S. EPA, AHP may reduce the amount of financial security to the amount of the revised cost estimate approved by U.S. EPA.

28. Reporting and other requirements:

- a. AHP and WKI must establish a publicly accessible repository for information regarding site activities and conduct public outreach and involvement activities.
- b. AHP must provide quarterly progress reports to U.S. EPA by the fifteenth day of the month after the end of each quarter until this Order has been terminated unless otherwise agreed by U.S. EPA. The report must list work performed during the reporting period, as well as data collected and problems encountered during the reporting period, the project schedule, and the percent of the project completed.
- c. The parties will communicate frequently and in good faith to assure successful completion of the requirements of this Order, and will meet on at least a semi-annual basis to discuss the work proposed and performed under this Order.
- d. AHP must provide a Final Remedy Construction Completion Report documenting all work that AHP has performed pursuant to the schedule for construction and implementation of the selected remedy. A registered professional engineer and AHP's Project Manager shall state in the report that the selected remedy has been constructed and implemented in accordance with the design and specifications, to the best of their knowledge.
- e. For ongoing monitoring and operation and maintenance after construction of the selected remedy, AHP must include an operations and maintenance plan in the Final Remedy Construction Completion Report. By the dates specified by U.S. EPA, AHP must revise and resubmit the report and plan in response to U.S. EPA's written comments, if any, consistent with the attached Scope of Work. Upon U.S. EPA's written approval, AHP must implement the approved operation and maintenance plan according to the schedule and terms of the plan.
- f. All sampling and analysis conducted under this Order must be performed in accordance with the Region 5 RCRA Quality Assurance Project Plan Policy (April 1998) as appropriate for the facility, and be sufficient to identify and characterize the nature and extent of all releases as required by this Order. U.S. EPA may audit laboratories AHP selects or require AHP to purchase and have analyzed a reasonable number of performance evaluation samples selected by U.S. EPA which are compounds of concern to demonstrate the quality of the laboratory's analytical data. AHP must notify U.S. EPA in writing at least 14 days before beginning each separate phase of field work performed under this

Order. At the request of U.S. EPA, AHP will provide or allow U.S. EPA or its authorized representative to take split or duplicate samples of all samples AHP collects under this Order.

29. Project Managers can agree in writing to extend, for 90 days or less, any deadline in this Section. However, extensions of greater than 90 days require obtaining approval from the Chief of the Enforcement and Compliance Assurance Branch; Waste, Pesticides and Toxics Division, U.S. EPA Region 5.

30. WKI's obligations to allow AHP to perform the work described in this Order and all attachments hereto shall be as follows:

- a. WKI shall allow AHP, and any and all employees, agents and contractors of AHP, access to the facility, and WKI's records relating to this Order, at all reasonable times and at all places necessary for the purpose of performing all of the tasks and responsibilities set forth in this Order and the attachments hereto and for the purpose of conducting oversight of the same.
- b. WKI shall not contest or otherwise seek to hinder or impede any of the work to be performed by AHP, or any and all employees, agents and contractors of AHP, so long as the activities performed by AHP, or any of its employees, agents, or contractors do not materially interfere with (i) the structural integrity of the facility, or (ii) WKI's day-to-day operations of its facility during the pendency of this Order. Any disagreements concerning actions which may or may not constitute material interference as described above shall be resolved in accordance with the dispute resolution provisions set forth in Section X of this Order.

31. Other than for those acts and obligations for which WKI is responsible under the various provisions of this Order, AHP shall be liable for, and shall be obligated under and for the duration of this Order to do, all acts necessary to fulfill the requirements of this Order.

32. AHP may utilize studies, surveys, data, and reports previously prepared or collected concerning the facility, and may utilize wells and other equipment previously installed at the facility to the extent that such work, studies, surveys, data, wells, and equipment reliably and accurately reflect current conditions at the facility.

VII. ACCESS

33. Upon reasonable notice, and at reasonable times, U.S. EPA, its contractors, employees, and any designated U.S. EPA representatives may enter and freely move about the facility during the effective dates of this Order for the purpose of reviewing the progress of AHP and WKI in implementing the provisions of this Order by, among other things, interviewing facility personnel and contractors; conducting tests, sampling and monitoring as U.S. EPA deems

necessary; using a camera, sound recording, or other documentary equipment; and verifying the reports and data AHP submits to U.S. EPA. AHP and WKI will permit such persons to inspect and copy all non-privileged photographs and documents, including all sampling and monitoring data, that pertain to work undertaken under this Order and that are within the possession or under the control of AHP, WKI or their contractors or consultants. Upon request, U.S. EPA will provide AHP and WKI split samples of any samples collected by U.S. EPA, or by authorized representatives of U.S. EPA, and copies of all photographs, tapes, videos or other recorded evidence created by U.S. EPA and releaseable under the Freedom of Information Act including all analytical results and any technical data and reports collected or prepared by U.S. EPA.

34. To the extent that work being conducted pursuant to this Order must be done beyond the facility's property boundary, AHP must use its best efforts to obtain the necessary access agreements from the present owner(s) of such property within 30 days after AHP knows of the need for access. Any such access agreement must provide for access by U.S. EPA and its representatives. AHP must submit a copy of any access agreement to U.S. EPA's Project Manager. If it does not obtain agreements for access within 30 days, AHP must notify U.S. EPA in writing within 14 additional days of both the efforts undertaken to obtain access and the failure to obtain access agreements. U.S. EPA may, at its discretion, assist AHP in obtaining access.

35. Nothing in this Section limits or otherwise affects U.S. EPA's right of access and entry under applicable law, including RCRA and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675.

VIII. RECORD PRESERVATION

36. AHP and WKI must retain, during the pendency of this Order and for at least six years after the Order terminates, all data and all final documents now in their possession or control or which come into their possession or control which relate to this Order. AHP and WKI must notify U.S. EPA in writing 90 days before destroying any such records, and give U.S. EPA the opportunity to take possession of any non-privileged documents. The notice of AHP and WKI will refer to the effective date, caption, and docket number of this Order and will be addressed to:

Director
Waste, Pesticides and Toxics Division
U.S. EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

AHP and WKI will also promptly give U.S. EPA's Project Manager a copy of the notice.

37. Within 30 days of retaining or employing any agent, consultant, or contractor ("agents") to carry out the terms of this Order, AHP and WKI will enter into an agreement with their respective agents to give AHP and WKI a copy of all data and final non-privileged documents produced under this Order.

38. U.S. EPA, AHP and WKI will not assert any privilege claim concerning any validated data gathered during any investigations or other actions required by this Order.

IX. STIPULATED PENALTIES

39. AHP and WKI must pay the stipulated penalties set forth below to the United States for violations of this Order, unless (i) there has been a written modification of a compliance date by U.S. EPA, (ii) U.S. EPA has approved, in writing, AHP's or WKI's written request for an extension of time, (iii) a delay excusable pursuant to Section XI (Force Majeure and Excusable Delay) of this Order has arisen, (iv) payment of stipulated penalties has been excused by the Director of the Waste, Pesticides, and Toxics Division, U.S. EPA, Region 5 pursuant to Section X (Dispute Resolution), or (v) in the exercise of its unreviewable discretion, U.S. EPA has otherwise waived payment of any portion of or all stipulated penalties otherwise owed. AHP and WKI shall be jointly and severally liable for the stipulated penalties in paragraph 39.a. through 39.e.

- a. AHP and/or WKI: For failure to submit progress reports by the dates scheduled in paragraph 28.b., above: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- b. AHP and/or WKI: For failure to implement, according to the schedule in the attached Scope of Work, the remedial components described in paragraphs 15a., b., c., and f. and 16: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- c. AHP and/or WKI: For failure to submit or revise and submit, the Final Remedy Construction Completion Report and operation and maintenance plan as required and scheduled in paragraphs 16 and 28: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.
- d. AHP and/or WKI: For failure to implement, according to the approved schedule and terms, the approved operation and maintenance plan: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.
- e. AHP and/or WKI: For failure to provide the cost estimate and financial security as required and scheduled in paragraph 27: \$1,000 per day for the first 14 days and \$2,000 per day thereafter.

- f. WKI: For failure to maintain the institutional controls as required in paragraphs 21 through 23 and paragraph 25: \$3,000 per day for the first 14 days and \$6,000 per day thereafter.
- g. WKI: For failure to submit for review or record a deed notice as required by paragraph 26: \$2,000 per day for the first 14 days and \$4,000 per day thereafter.
- h. WKI: For failure to refrain from contesting or otherwise seeking to hinder or impede any of the work to be performed by AHP, or any and all employees, agents, or contractors of AHP in violation of the provisions of paragraph 30.b.: \$2,000 per day for the 14 days and \$4,000 per day thereafter.
- i. WKI: For failure to provide access required by paragraph 30.a.: \$2000 per day for the first 14 days and \$4,000 per day thereafter.

40. Except as otherwise provided in this Order, whether or not AHP or WKI has received notice of a violation, stipulated penalties will begin to accrue on the first day a violation occurs, and will continue to accrue until AHP or WKI complies. Separate stipulated penalties for separate violations of this Order will accrue simultaneously.

41. AHP and WKI must pay any stipulated penalties owed by them to the United States under this Section within 30 days of receiving U.S. EPA's written demand to pay the penalties, unless AHP or WKI invokes the dispute resolution procedures under Section X: Dispute Resolution. A written demand for stipulated penalties will describe the violation and will indicate the amount of penalties due.

42. Interest will begin to accrue on any unpaid stipulated penalty balance beginning 31 days after AHP's and/or WKI's receipt of U.S. EPA's demand letter or, if AHP or WKI invokes the dispute resolution provisions under Section X, AHP and/or WKI must pay interest, if any, according to the dispute resolution decision or agreement. Interest will accrue at the current value of funds rate established by the Secretary of the Treasury. Under 31 U.S.C. § 3717, AHP and/or WKI must pay an additional penalty of six percent per year on any unpaid stipulated penalty balance more than 90 days overdue.

43. AHP and/or WKI must pay all penalties by certified or cashier's check payable to the United States of America, or by wire transfer. Payment shall be remitted to:

U.S. Department of the Treasury
Attention: U.S. EPA Region 5, Office of the Comptroller
P.O. Box 70753
Chicago, Illinois 60673.

A transmittal letter stating the name of the facility, AHP's or WKI's name and address, and the U.S. EPA docket number of this action must accompany the payment. AHP or WKI will simultaneously send a copy of the check and transmittal letters to the U.S. EPA Project Manager.

44. AHP or WKI may dispute U.S. EPA's assessment of stipulated penalties by invoking the dispute resolution procedures under Section X: Dispute Resolution. The stipulated penalties in dispute will continue to accrue, but need not be paid, during the dispute resolution period. AHP or WKI must pay stipulated penalties and interest, if any, according to the dispute resolution decision or agreement. AHP or WKI must submit any such payment due to U.S. EPA within 30 days after receiving the resolution according to the payment instructions of this Section.

45. Neither invoking dispute resolution nor paying penalties will affect AHP's or WKI's obligation to comply with the terms of this Order not directly in dispute.

46. The stipulated penalties provided for in this Section do not preclude U.S. EPA from pursuing any other remedies or sanctions which may be available to U.S. EPA for AHP's or WKI's violation of any terms of this Order. However, U.S. EPA will not seek both a stipulated penalty under this Section and a statutory penalty for the same violation.

X. DISPUTE RESOLUTION

47. The parties to this Order recognize that disputes may arise between the parties regarding the work to be performed in Section VI or other provisions in this Order. The provisions of this Section X shall govern the resolution of such disputes regardless of whether these provisions are referenced elsewhere in the Order. The parties will use their best efforts to informally and in good faith resolve all disputes or differences of opinion.

48. If any party disagrees, in whole or in part, with any decision made or action taken under this Order, that party will notify the other relevant party's Project Manager of the dispute. The Project Managers will attempt to resolve the dispute informally.

49. If the Project Managers cannot resolve the dispute informally, any party may pursue the matter formally by placing its objections in writing and notifying the other party of its decision to invoke the dispute resolution provisions of this Section X. A written objection must state the specific points in dispute, the basis for that party's position, and any matters which that party considers necessary for determination. Within 14 days after receipt of a written objection, the other party will respond in writing.

50. The parties will in good faith attempt to resolve the dispute through formal negotiations within 21 days from receipt of the objections to the position of the party originally providing notice, or a longer period if agreed in writing by the parties. During formal

negotiations, any party may request a conference with appropriate senior management to discuss the dispute.

51. If the parties are unable to reach an agreement through formal negotiations, the matter shall be referred to the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5. Within 10 business days after any formal negotiations end, the parties may submit additional written information and supplemental statements of position to the Director. No representative of any party shall engage in ex parte discussions with the Director regarding the matter in dispute. U.S. EPA will maintain a record of the dispute, which will contain all written statements of position and any other documentation submitted pursuant to the terms of this Section. Based on the record, U.S. EPA will respond to AHP's or WKI's arguments and evidence and provide a detailed written decision on the dispute signed by the Director of the Waste, Pesticides and Toxics Division, U.S. EPA Region 5 ("EPA Dispute Decision"). In deciding whether stipulated penalties and/or interest, if any, must be paid, the Director of the Waste, Pesticides and Toxics Division may consider, among other factors deemed relevant, whether AHP or WKI initiated dispute resolution, and continued to negotiate a resolution of the dispute in good faith.

XI. FORCE MAJEURE AND EXCUSABLE DELAY

52. AHP and WKI shall perform the requirements of this Order within the time periods set forth or approved herein, except to the extent that performance is prevented or delayed by events which constitute a force majeure. Force majeure, for purposes of this Order, is any event arising from causes not foreseen and beyond AHP's or WKI's control that delays or prevents the timely performance of any obligation under this Order despite AHP's or WKI's best efforts. "Best efforts" include using best efforts to anticipate any potential force majeure event and address it during and after its occurrence, such that any delay or prevention of performance is minimized to the greatest extent possible. Force majeure does not include increased costs of the work to be performed under this Order, financial inability to complete the work, work stoppages or other labor disputes.

53. If any event occurs or has occurred that may delay or prevent the performance of any obligation under this Order, whether or not caused by a force majeure event, AHP or WKI must notify U.S. EPA by telephone within two business days after learning that the event may cause a delay. If AHP or WKI wishes to claim a force majeure event, within 15 business days thereafter AHP or WKI must provide to U.S. EPA in writing all relevant information relating to the claim, including a proposed revised schedule.

54. If U.S. EPA determines that a delay or anticipated delay is attributable to a force majeure event, U.S. EPA will extend in writing the time to perform the obligation affected by the force majeure event and any other obligation whose performance depends upon performance of the obligation affected by a force majeure event for such time as U.S. EPA determines is necessary to complete the obligation or obligations.

XII. MODIFICATION

55. This Order may be modified only by mutual agreement of U.S. EPA and AHP and WKI, except as provided in paragraph 29 of Section VI - Work to be Performed. Any agreed modifications will be in writing, will be signed by all parties, will be effective on the date specified therein and will be incorporated into this Order.

XIII. RESERVATION OF RIGHTS

56. Nothing in this Order restricts U.S. EPA's authority to seek AHPs or WKI's compliance with the Order and applicable laws and regulations. In addition, U.S. EPA specifically reserves its rights to bring an action to compel WKI to perform any work required to be performed by AHP under this Order that is not performed by AHP in accordance with the provisions of this Order and/or the attached Scope of Work. For violations of this Order, U.S. EPA reserves its rights to bring an action to enforce the Order, to assess penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6928(h)(2) (except as otherwise provided in paragraph 46), and to issue an administrative order to perform additional corrective actions or other response measures. In any later proceeding, AHP and WKI shall not assert or maintain any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon a contention that the claims raised by the United States in the later proceeding were or should have been raised here. Except as otherwise expressly provided in paragraph 38, 46 or 57, this Order is not a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, or authorities of U.S. EPA.

57. U.S. EPA reserves all of its rights to perform any portion of the work consented to here or any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health or the environment. Notwithstanding the foregoing sentence, U.S. EPA agrees not to perform any work required to be performed by AHP or WKI under this Order if AHP or WKI is in compliance with the terms of this Order.

58. If U.S. EPA determines that the actions of AHP or WKI related to this Order have caused or may cause a release of hazardous waste or hazardous constituent(s), or a threat to human health or the environment, or that AHP or WKI cannot perform any of the work ordered, U.S. EPA may order AHP or WKI to stop implementing this Order for the time U.S. EPA determines may be needed to abate the release or threat and to take any action that U.S. EPA determines is necessary to abate the release or threat.

59. Except for the specific waivers expressly set forth in this Order, AHP and WKI reserve all of their rights, remedies and defenses, including, but not limited to, all rights and defenses they may have: (a) to challenge U.S. EPA's performance of work or issuance of orders requiring AHP or WKI to perform additional work or incur additional expenses; (b) to challenge U.S. EPA's stop work orders; (c) regarding liability or responsibility for conditions at the facility, except for their right to contest U.S. EPA's jurisdiction to issue or enforce this Order;

and (d) against all parties and entities not bound by this Order. AHP and WKI have entered into this Order in good faith without trial or adjudication of any issue of fact or law. AHP and WKI reserve their right to seek judicial review of U.S. EPA actions taken under this Order, including, but not limited to, a proceeding brought by the United States to enforce the Order or to collect penalties for violations of the Order.

XIV. OTHER CLAIMS

60. AHP and WKI waive any claims or demands for compensation or payment under Section 106(b), 111, and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. § 9507 for, or arising out of, any activity performed or expense incurred under this Order. Additionally, this Order is not a decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

61. Nothing in this Order shall constitute or be construed as a release by any party bound by this Order of any claim, cause of action, or demand, in law or equity, against any other person, firm, partnership, corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, disposal or release of any hazardous waste constituents, hazardous wastes, hazardous substances, pollutants or contaminants found at, released from, or taken from the facility.

XV. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

62. AHP agrees to indemnify, save and hold harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising solely from or on account of acts or omissions of AHP or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. WKI agrees to indemnify, save and hold harmless the United States, its agencies, departments, agents, and employees, from all claims or causes of action arising solely from or on account of acts or omissions of WKI or its officers, employees, agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Order. These indemnifications will not affect or limit the rights or obligations of AHP, WKI, or the United States under their various contracts. These indemnifications will not create any obligation on the part of AHP or WKI to indemnify the United States from claims arising solely from the acts or omissions of the United States, its agencies, departments, agents, or employees.

XVI. SEVERABILITY

63. If any judicial or administrative authority holds any provision of this Order to be invalid, the remaining provisions will remain in force and will not be affected.

XVII. TERMINATION AND SATISFACTION

64. AHP or WKI may request that U.S. EPA issue a determination that either party has met the requirements of the Order for all or a portion of the facility. AHP or WKI may also request that U.S. EPA issue a "no further interest" or "no further action" determination for all or a portion of the facility.

65. This Order shall terminate as to AHP when AHP demonstrates in writing to the satisfaction of U.S. EPA that all activities required of it under this Order, including payment of any stipulated penalties owed and due, but not including AHP's continuing obligation to preserve all records, as required by this Order, have been performed, and AHP and U.S. EPA execute an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights" (the "Acknowledgment"). This Order shall terminate as to WKI when WKI demonstrates in writing to the satisfaction of U.S. EPA that all activities required of it under this Order, including payment of any stipulated penalties owed and due, but not including WKI's continuing obligation to preserve all records, as required by this Order, and maintain any necessary institutional controls, as required by paragraphs 21 through 23 and 25 of this Order, have been performed, and WKI and U.S. EPA execute an "Acknowledgment of Termination and Agreement on Record Preservation and Reservation of Rights" (the "Acknowledgment"). The determination required by U.S. EPA under this paragraph, and execution by U.S. EPA of the Acknowledgment, shall not be unreasonably withheld or delayed.

66. AHP's and WKI's execution of the Acknowledgment will affirm their continuing obligation to preserve all records as required by Section VIII, to maintain (in the case of WKI) any necessary institutional controls or other long term measures as required in Section VI, and to recognize U.S. EPA's reservation of rights as set forth in Section XIII.

67. The failure of U.S. EPA to make the determination required by paragraph 65, a U.S. EPA determination pursuant to that paragraph that AHP or WKI has not performed all activities required of them under this Order, or the failure of U.S. EPA to execute the Acknowledgment provided for in paragraph 65 upon submission by AHP or WKI of a demonstration provided for in that paragraph shall be subject to Section X (Dispute Resolution) of this Order.

XVIII. EFFECTIVE DATE

68. This Order is effective as to AHP and WKI upon receipt by each of them of a fully executed duplicate original of this Order signed by U.S. EPA. Except as specifically provided otherwise in this Order, all times for performance and compliance under this Order run from the effective date of this Order.

IT IS SO AGREED:

DATE: March 25, 2002

BY:

Name

VP - Environmental Affairs
Position

American Home Products Corp.
Respondent

DATE: August 6, 2002

BY:

Name

General Counsel
Position

World Kitchen, Inc.
Respondent

IT IS SO ORDERED:

DATE: August 22, 2002

BY:

Joseph M. Boyle
Joseph M. Boyle, Chief

Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
Region 5

RCRA-05- 2002-0010

ATTACHMENT 1

Table 1: Soil Performance Standards for Protecting Groundwater at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL ($\mu\text{g/kg}$)
1,1-dichloroethylene	120
1,2-dichloroethylene (total)	1,500
1,1,1-trichloroethane	6,140
Trichloroethylene	230

Table 2: Industrial Soil Performance Standards for Human Exposure to Contaminants at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL ($\mu\text{g/kg}$)
1,1-dichloroethylene	120
1,2-dichloroethylene (total)	150,000
1,1,1-trichloroethane	1,400,000
Trichloroethylene	6,100

Table 3: Residential Soil Performance Standards for Human Exposure to Contaminants at the Facility

SOIL CONTAMINANT	SOIL CLEANUP LEVEL ($\mu\text{g/kg}$)
1,1-dichloroethylene	54
1,2-dichloroethylene (total)	43,000
1,1,1-trichloroethane	630,000
Trichloroethylene	2,800

Table 4: Groundwater Performance Standards for the Facility

GROUNDWATER CONTAMINANT	GROUNDWATER CLEANUP LEVEL ($\mu\text{g/l}$)
1,1-dichloroethane	810
1,1-dichloroethylene	7
cis-1,2-dichloroethylene	70
trans-1,2-dichloroethylene	100
1,1,1-trichloroethane	200
Trichloroethylene	5
Vinyl chloride	2

ATTACHMENT 2**Scope of Work for Corrective Measures Implementation at the
World Kitchen Facility in Massillon, Ohio****1. Introduction**

This Scope of Work sets forth the work to be conducted to implement Section VI (Work to be Performed) of the Administrative Order on Consent (AOC) captioned In the Matter of: World Kitchen, Inc. and American Home Products Corp., U.S. EPA Docket No.

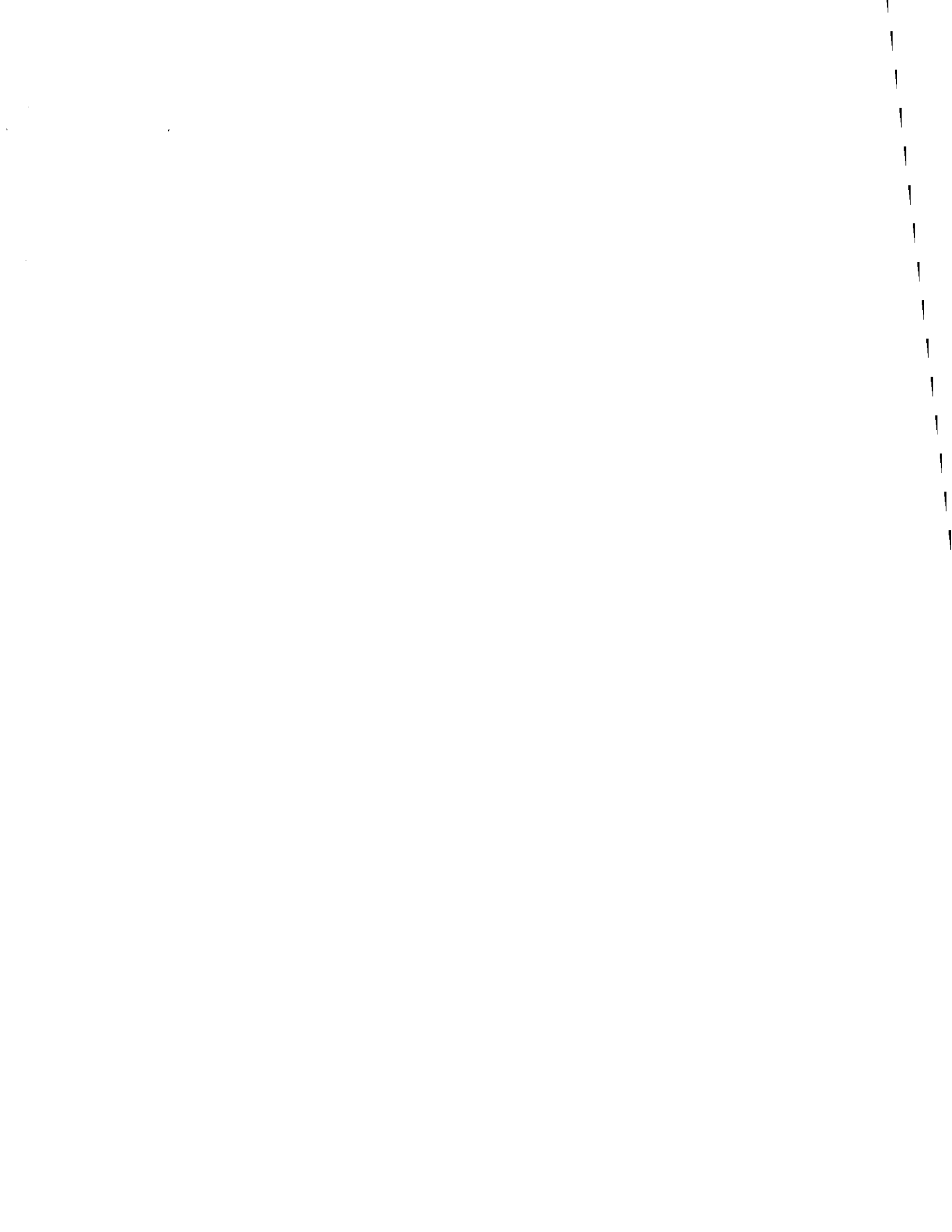
Paragraphs 14 through 32 in Section VI of the AOC address the "Work to Be Performed" and Paragraphs 14 through 20 focus on the site soil and groundwater remediation and related activities. This Scope of Work identifies the soil and groundwater remediation work that will be performed under the AOC and includes the following sections:

- Schedule of Remediation and Consent Order Activities (Paragraphs 16, 17, and 18 of the AOC).
- Groundwater Remediation (Paragraphs 16, 17, and 20 of the AOC).
- Soil Remediation (Paragraphs 16 and 18 of the AOC).

In 1993, American Home Products Corp. (AHP) prepared a Final Corrective Measures Study (CMS) for the facility located at 359 State Avenue, Ext. N.W., Massillon, Ohio (the facility) which is currently owned and operated by World Kitchen, Inc. (WKI). The CMS estimates that it will take more than 30 years to clean up groundwater contamination at the WKI facility.

U.S. EPA issued a Final Decision on April 23, 2001, that among other things, requires soil vapor extraction (SVE) to treat contaminated soil, air sparging of shallow groundwater and collection using SVE, and extraction of contaminated groundwater in the bedrock aquifer and treatment by air stripping. A summary of the current remediation status is provided below:

- As documented in the CMS, all contaminated groundwater beneath the facility is contained by the pumping of recovery wells W-1 and W-10 and is treated by the on-site air stripper installed in 1986.
- The planned groundwater remediation program to be implemented for the facility (CMS Alternative GW-6) consists of continuing the pump and treat system, incorporating pulse pumping of the recovery wells, and adding air sparging (AS) in the shallow zone.
- The soil remediation program recommended in the CMS was soil vapor extraction (SVE) in three areas (Area-1, Area-2, and Area-3) outside the building (CMS Alternative OS-3), and in one area (Area-4) inside the building (CMS Alternative IS-2). However, recent soil investigations have shown that soil remediation is no longer needed in one of the areas outside the building and that soil remediation is needed in an area not identified in the CMS (Weston, 2001). Area-3 has contaminant concentrations below the soil performance standards; therefore no soil remediation is needed in that area.



Operations and Maintenance (O&M) Plan. The groundwater remediation system operations will be recorded either daily by on-site WKI maintenance personnel, or automatically with electronic data loggers. AHP will document the O&M activities and total operation time in the quarterly progress reports to be submitted under the AOC (the frequency of these reports may be modified upon approval by U.S. EPA).

Groundwater Pump and Treat System Completion: AHP may discontinue operating the groundwater pump and treat system based on the following process:

a) AHP may discontinue operating the groundwater pump and treat system once the sampling data from the groundwater monitoring program show that no groundwater performance standards (see 3.2 below) are exceeded at any compliance well (R-2, R-3, R-4, R-5, and S-4) during two consecutive sampling events, and for the remaining site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1), or some subset of these wells agreed upon by U.S. EPA and AHP, for two consecutive sampling events. Within 30 days of validation of this data, AHP must submit the validated data in a report to the U.S. EPA (see 3.3 below). Upon U.S. EPA approval of the report, AHP may enter the performance monitoring period (see 3.2 below).

b) If five years after the installation of the AS/SVE system, groundwater performance standards are not met, the concentrations in the compliance wells have reached steady-state levels (i.e., the groundwater concentrations remain constant within $\pm 10\%$ over a 1-year period, or as approved by U.S. EPA); and the soil and groundwater remediation systems have been operated in accordance with the approved O&M Plan¹, AHP has the option at any time to reevaluate the relevant points of compliance or the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the groundwater remediation area (U.S. EPA, 1988, U.S. EPA, 1993, U.S. EPA, 1999, and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new points of compliance, new groundwater performance standards, and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

3.2 Groundwater Monitoring Program

Paragraph 15 in the AOC requires the implementation of a groundwater monitoring program to monitor the shallow and bedrock aquifers at the facility. The goal of this program is to monitor the progress of groundwater remediation and establish the basis to determine its completion.

¹ Minor or infrequent deviations from the requirements of the approved O&M Plan will not preclude AHP from pursuing this option provided U.S. EPA agrees that the deviations do not have a negative impact on the operation of the soil and groundwater remediation systems.

The monitoring wells that AHP will sample as part of the groundwater monitoring program are classified into three categories: compliance wells, assessment wells, and background wells. Compliance wells are used as "compliance points." "For final cleanups selected to return groundwater to its maximum beneficial use, EPA recommends regulators set the point of compliance throughout the area of contaminated groundwater, or when waste is left in place, at and beyond the boundary of the waste management area encompassing the original sources of groundwater contamination...." (footnote omitted) (U.S. EPA, 2001). The compliance wells will be used to compare groundwater contaminant concentrations to the groundwater performance standards to determine if remediation is complete. Assessment wells will be used to assess groundwater remediation system progress and to determine if changes are needed in recovery well pumping rates, air sparging flow rates, and pulse pumping schedules. The background well will be used to monitor background (upgradient) conditions. The compliance, assessment, and background wells to be used in the groundwater monitoring program (see Figure 2) are:

- Shallow zone: well L-3 (background), wells L-5 and AS-1 (assessment), well S-4 (compliance).
- Bedrock zone: wells R-2, R-3, R-4 and R-5 (compliance).
- Bedrock zone production/recovery wells: wells W-1 and W-10 (assessment).

The groundwater monitoring program consists of the following: all compliance wells, all assessment wells, and the background well². AHP will analyze samples from all compliance wells, all assessment wells, and the background well for the following site-specific target compounds as required by this Scope of Work:

Site Specific Target Compound	Groundwater Performance Standard (µg/l)
1,1-dichloroethane	810
1,1-dichloroethylene	7
cis-1,2-dichloroethylene	70
trans-1,2-dichloroethylene	100
1,1,1-trichloroethane	200
trichloroethylene	5
vinyl chloride	2

² In addition, AHP will sample the following site wells (W-1, W-2, W-10, I-2, I-4, I-5, L-1, L-5, and R-1), or some subset of these wells agreed upon by the U.S. EPA and AHP, for two consecutive quarterly sampling events to show no groundwater performance standards are exceeded before AHP discontinues operation of the groundwater pump and treat system (see 3.1a).

AHP will sample all compliance wells, all assessment wells, and the background well quarterly starting 90 days after the effective date of the AOC. However, AHP reserves the right to petition U.S. EPA to reduce the number of wells sampled, the frequency of sampling, and/or the constituents being sampled for during and after the first five year period if performance of the activities that are the subject of the petition are not necessary to protect human health or the environment. At a minimum, after five years of quarterly monitoring, the groundwater sampling schedule for all wells will be reduced to semi-annual.

If at any time during the sampling program, AHP questions groundwater sampling data from any of the compliance wells, AHP will initiate a discussion with U.S. EPA to determine an appropriate course of action. This course of action may include the resampling of one or more of the wells and resubmitting the new data in replacement of the previously collected data.

The groundwater pump and treat system performance-monitoring period begins after the groundwater pump and treat system is no longer required to operate (see 3.1). The performance-monitoring period consists of semi-annual groundwater sampling of all compliance wells, bedrock zone production/recovery wells (W-1 and W-10), and the background well for two years. At the conclusion of each semi-annual performance monitoring period, and within 30 days of the validation of the data obtained during that monitoring period, AHP will submit the validated data in a report to the U.S. EPA (see 3.3 below). If no groundwater performance standards are exceeded during the performance monitoring period, then AHP may terminate the performance monitoring program and must submit the groundwater remediation and monitoring report required under Section 3.3 below.

If one or more of the groundwater performance standards above is exceeded in any of the wells sampled during the performance monitoring period, AHP will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operation of the groundwater pump and treat system and/or alternative corrective measures as necessary to protect human health and the environment. AHP has the option at any time to reevaluate the relevant points of compliance or the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the groundwater remediation area (U.S. EPA, 1988, U.S. EPA, 1993, U.S. EPA, 1999, and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new points of compliance, new groundwater performance standards, and/or alternative corrective measures as necessary to protect human health and the environment. Alternative corrective measures may include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

3.3 Groundwater Remediation Reporting

AHP must submit the following reports to U.S. EPA:

a) Within 30 days after AHP determines that, based on validated site data, the groundwater performance standards have been attained at the facility, *AHP must submit a written report* to U.S. EPA for review and approval. This report must include a description of the performance monitoring to be performed to ensure that groundwater performance standards continue to be attained after the groundwater pump and treat system is no longer required to operate.

b) Within 30 days after the performance monitoring period has ended and AHP has validated site data, *AHP must submit a written report* to U.S. EPA for review and approval. In the report, a registered professional engineer or geologist and AHP's Project Manager must state that the groundwater performance standards have been attained at the point of compliance in satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA.

AHP must revise and resubmit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as may be approved by U.S. EPA.

If U.S. EPA approves the report set forth in Paragraph 3.3b above and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue operating the groundwater pump and treat system, and the groundwater sampling and reporting program, and AHP will have satisfied all groundwater remediation requirements of the AOC.

3.4 Air Sparging System

This section discusses the following aspects of the AOC groundwater air sparging system:

- Groundwater Air Sparging Completion
- Groundwater Air Sparging Reporting

3.4.1 Groundwater Air Sparging Completion

AHP will conduct groundwater air sparging in Area 3-East (see Figure 1) and will sample air sparging assessment well AS-1 as part of the groundwater monitoring program described in Section 3.2. AHP may discontinue operating the groundwater air sparging system and the groundwater sampling of well AS-1 based on the following process:

a) *AHP may discontinue operating the groundwater air sparging system* once the sampling data from the groundwater monitoring program show that no groundwater performance standards (see 3.2) are exceeded for the air sparging assessment well AS-1 during two consecutive sampling events. Within 30 days of the validation of this data, AHP will submit the validated data in a report to the U.S. EPA (see 3.4.2 below) and enter a performance monitoring period (see 3.4.1c below).

b) If five years after the effective date of the AOC, the groundwater performance standards are not met in well AS-1, the concentrations have reached steady-state levels (the groundwater concentrations remain constant within $\pm 10\%$ over a 1-year period, or as approved by U.S. EPA), and the air sparging system has been operated in accordance with the approved O&M Plan³, AHP has the option at any time to reevaluate the groundwater performance standards which have not been met and/or evaluate alternative corrective measures for the air sparging area (U.S. EPA 1988, U.S. EPA, 1993; and/or other applicable guidance in effect at the time). AHP may submit a document to U.S. EPA for approval, that proposes new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

c) The air sparging performance-monitoring period will start after the air sparging system is no longer required to operate (see 3.4.1a). The performance-monitoring period will consist of quarterly groundwater sampling of the assessment well AS-1 (see 3.2) for two years. At the conclusion of the performance monitoring period, and within 30 days of the validation of this data, AHP will submit the validated data in a report to U.S. EPA (see 3.4.2 below).

d) If any of the groundwater performance standards (listed in 3.2) are exceeded in well AS-1 during the performance monitoring period (see 3.4.1c), AHP will initiate a discussion with the U.S. EPA to determine an appropriate course of action. This course of action may include additional operation of the groundwater air sparging system and/or alternative corrective measures as necessary to protect human health and the environment. AHP may submit a document to U.S. EPA for approval, that proposes new groundwater performance standards and/or alternative corrective measures as necessary to protect human health and the environment. Alternative corrective measures may include, but are not limited to the following: engineering controls, institutional controls, and monitored natural attenuation. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

3.4.2 Groundwater Air Sparging Reporting

AHP must submit the following reports to U.S. EPA:

a) Within 30 days after AHP determines that, based on validated site data, the groundwater performance standards have been attained in well AS-1 (see 3.4.1a), AHP must submit a written report to U.S. EPA for review and approval. This report must include a description of the performance monitoring to be performed to ensure that groundwater performance standards

³ Minor or infrequent deviations from the requirements of the approved O&M Plan will not preclude AHP from pursuing this option provided U.S. EPA agrees that the deviations do not have a negative impact on the operation of the soil and groundwater remediation systems.

continue to be attained after the air sparging system is no longer required to operate.

b) Within 30 days after the performance monitoring period has ended and AHP has validated site data, AHP must submit a written report to U.S. EPA for review and approval. In this report, a registered professional engineer or geologist and AHP's Project Manager must state that the groundwater performance standards have been attained in well AS-1 in full satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA.

AHP must revise and resubmit both reports in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as may be approved by U.S. EPA.

If U.S. EPA approves the demonstration set forth in Paragraph 3.4.1a and there have been no exceedances of groundwater performance standards during the performance monitoring period (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue operating the groundwater air sparging system, the groundwater sampling of well AS-1 and reporting, and AHP will have satisfied the groundwater air sparging remediation requirements of the AOC.

4.0 Soil Remediation

This section discusses the following aspects of the AOC soil remediation:

- Soil Corrective Measures Alternatives
- Soil Monitoring Program
- Soil Remediation Reporting

4.1 Soil Corrective Measure Alternatives

The soil remediation program consists of conducting SVE in three areas outside the building (CMS Alternative OS-3) and one area inside the building (CMS Alternative IS-2). AHP will operate the soil remediation system continuously except for periodic maintenance activities. AHP will describe the required operation and maintenance procedures for the soil remediation system in the U.S. EPA-approved Operations and Maintenance (O&M) Plan. The soil remediation system operations will be recorded either daily by WKI on-site maintenance personnel, or automatically with electronic data loggers. AHP will document the O&M activities and total operation time in the progress reports.

Soil Remediation Completion: The soil remediation in any given area will be complete and AHP may discontinue operating the soil remediation program based on the following process:

a) AHP will operate each of the SVE systems until it reaches a negligible removal rate, which is defined as an extracted air target-compound removal rate less than 0.2 lb/day for two

consecutive months or the removal rate remains within a narrowly defined range (AHP will provide a specific proposal to U.S. EPA for approval to define this range) for four consecutive months. At this point, AHP will initiate soil confirmation sampling (see 4.2 below).

b) If soil confirmation sampling does not confirm that the soil performance standards have been met (see 4.2), then AHP has the option to reevaluate the soil performance standards and/or to evaluate other corrective measures in those areas where the designated soil performance standards have not been met. AHP may submit a document to U.S. EPA for approval, that proposes new soil performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to, engineering controls. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

c) The soil remediation will be complete in any of the SVE remediation areas when the soil confirmation sampling results are below all of the designated performance standards (see 4.2), or as otherwise approved by U.S. EPA.

d) The soil remediation will continue in any of the SVE remediation areas when any of the soil confirmation sampling results are above the designated performance standards (see 4.2). In these areas, SVE remediation will continue with subsequent soil confirmation sampling (see 4.2) until sample results in the area are all below the performance standards or until otherwise approved by U.S. EPA. AHP may submit a document to U.S. EPA for approval, that proposes new soil performance standards and/or alternative corrective measures as necessary to protect human health and the environment. The alternative corrective measures that AHP may submit include, but are not limited to, engineering controls. U.S. EPA will approve or disapprove AHP's proposal based on criteria provided in applicable U.S. EPA regulations and/or guidance in effect at the time.

4.2 Soil Monitoring Program

The soil remediation monitoring will consist of monitoring air from the SVE vents and collecting confirmation soil samples from the SVE remediation areas. During the SVE system operation, AHP will collect air samples and flow measurements from the SVE system air emissions in each of the remediation areas. AHP will analyze the air samples for the four target constituents listed below. These data will be used to evaluate system performance, maintenance, optimization, and termination. The point of compliance for the soil performance standards is at any points necessary to protect against exceedances of the soil performance standards for protecting groundwater in the table below.

Soil confirmation sampling will consist of advancing three soil borings spaced evenly throughout each SVE remediation area and collecting two soil samples from each soil boring: one from the midpoint which is defined as halfway between ground surface and the bottom of the deepest SVE well in that area; and one from the soil interval with the maximum photoionization detector

(PID) screening level. AHP will analyze the samples for the following site-specific target compounds to determine compliance with their respective soil performance standard:

Site-Specific Target Compound	Soil Performance Standard (µg/kg)
1,1-dichloroethylene	120
1,2-dichloroethylene	1500
1,1,1-trichloroethane	6140
trichloroethylene	230

If during *soil confirmation sampling*, soil data from any of the samples are questioned, AHP will initiate a discussion with U.S. EPA to determine an appropriate course of action. This course of action may include resampling of one or more of the areas and resubmitting the new data in replacement of the previously collected data.

4.3 Soil Remediation Reporting

Within 30 days after determining that the soil remediation is complete, AHP must submit a written report to U.S. EPA for review and approval. A registered professional engineer or geologist and AHP's Project Manager must state in the report that the soil performance standards were attained in all SVE areas in full satisfaction of requirements of the AOC, to the best of their knowledge, or that AHP has attained alternative soil performance standards and/or alternative corrective measures approved by U.S. EPA. AHP must revise and resubmit the report in response to U.S. EPA's written comments, if any, within 30 days of receipt of the comments from U.S. EPA, or under such other extended schedule as approved by U.S. EPA. If U.S. EPA approves the demonstration set forth in Paragraph 4.2 above and all soil confirmation samples are below the soil performance standards (or if AHP has fully attained alternative performance standards and/or corrective measures approved by U.S. EPA), AHP may discontinue conducting soil remediation, sampling, maintenance, and reporting activities required under the AOC, and AHP will have satisfied all soil remediation requirements of the AOC.

5. References

U.S. EPA. 1988. *Alternate Concentration Limit Guidance*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA/530-SW-87-031.

U.S. EPA. 1993. *Guidance for Evaluating the Technical Impracticability of Ground-Water Restoration*. Office of Solid Waste and Emergency Response. Washington, D.C. OSWER Directive 9234.2-25.

U.S. EPA. 1998. *RCRA Quality Assurance Project Plan (QAPP) Instructions*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.

U.S. EPA. 1999. *Use of Monitored Natural Attenuation at Superfund, RCRA Corrective Action, and Underground Storage Tank Sites*. Office of Solid Waste and Emergency Response. Washington, D.C. OSWER Directive 9200.4-17P.

U.S. EPA. 2000. *Use of Institutional Controls in the RCRA Corrective Action Program*. Region 5. Waste, Pesticides and Toxics Division. Chicago, Illinois.

U.S. EPA. 2001. *Handbook of Groundwater Protection and Cleanup Policies for RCRA Corrective Action*. Office of Solid Waste and Emergency Response. Washington, D.C. EPA/530/R-01/015.

WESTON. 1993. "Final Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."

WESTON. 1994. "Addendum to the Corrective Measures Study, EKCO Housewares, Inc., Massillon, Ohio."

WESTON. 2001. "Final Soil Investigation Report for the EKCO WKI Facility, Massillon, Ohio."

**Table 1. Administrative Order on Consent Schedule
WKL, Massillon, Ohio Facility**

Event	Due Date*
American Home Products Corporation and U.S. EPA must each designate a Project Manager and notify each other in writing.	14 days
Submit a Community Relations Plan.	45 days
Submit an Institutional Control Plan.	45 days
Submit a Project Management Plan.	45 days
Submit a Data Management Plan.	45 days
Submit a Sampling and Analysis Plan.	60 days
Submit a Quality Assurance Project Plan.	60 days
Submit a Site Health and Safety Plan.	60 days
Submit first Progress Report and submit quarterly thereafter**.	60 days
Begin quarterly groundwater monitoring program for first 5 years and semi-annually thereafter.**	90 days
Submit a Design Report for implementing IS-2, OS-3, and GW-6.	90 days
Complete construction and begin operation of IS-2, OS-3, and GW-6.	12 months
Submit a Construction Completion Report and Operation and Maintenance Plan for IS-2, OS-3, and GW-6.	15 months

* Due date is the time from the effective date of the AOC.

** Or other schedule as approved by U.S. EPA.

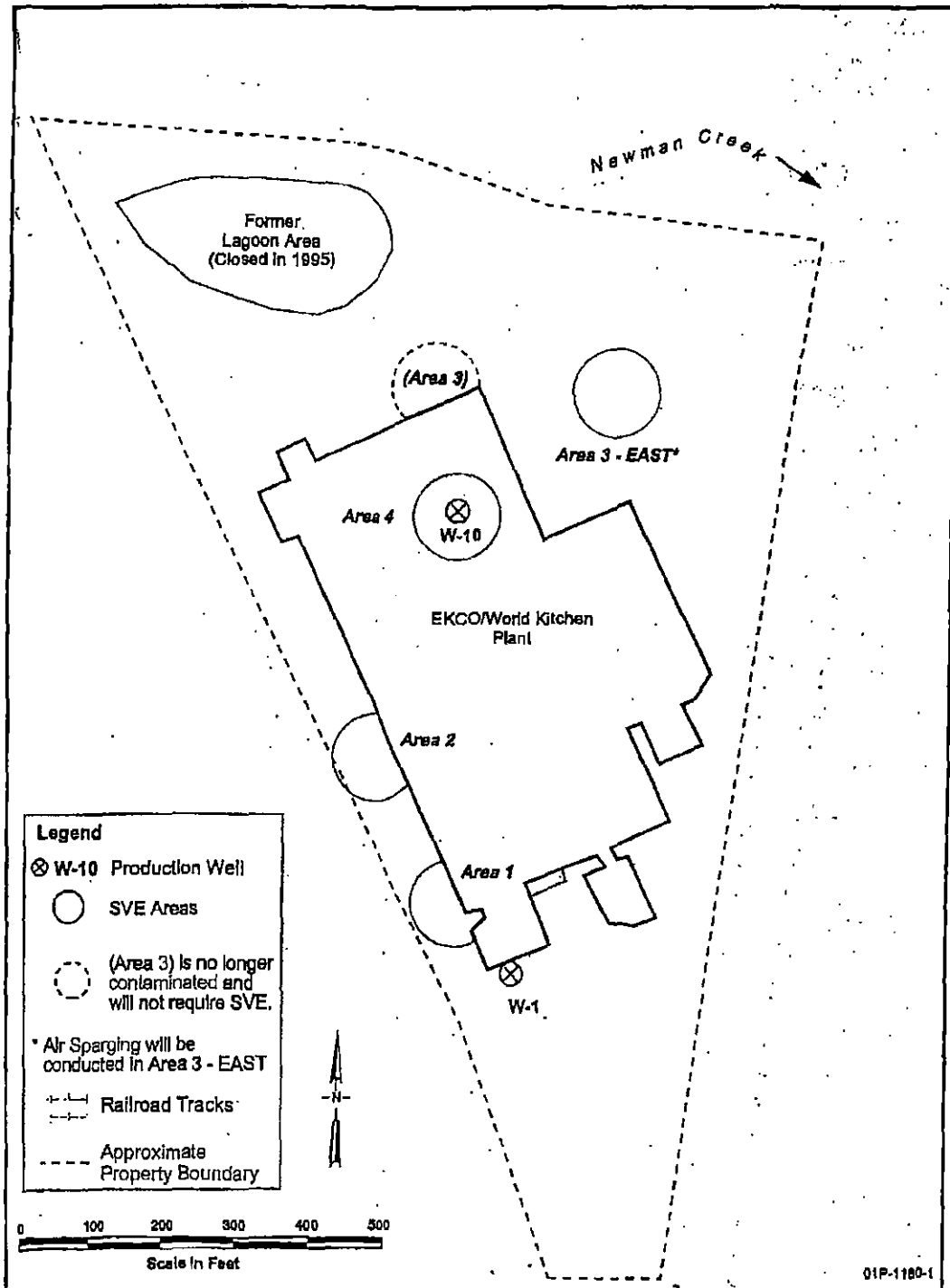


FIGURE 1 SOIL VAPOR EXTRACTION (SVE) AND AIR SPARGING AREAS

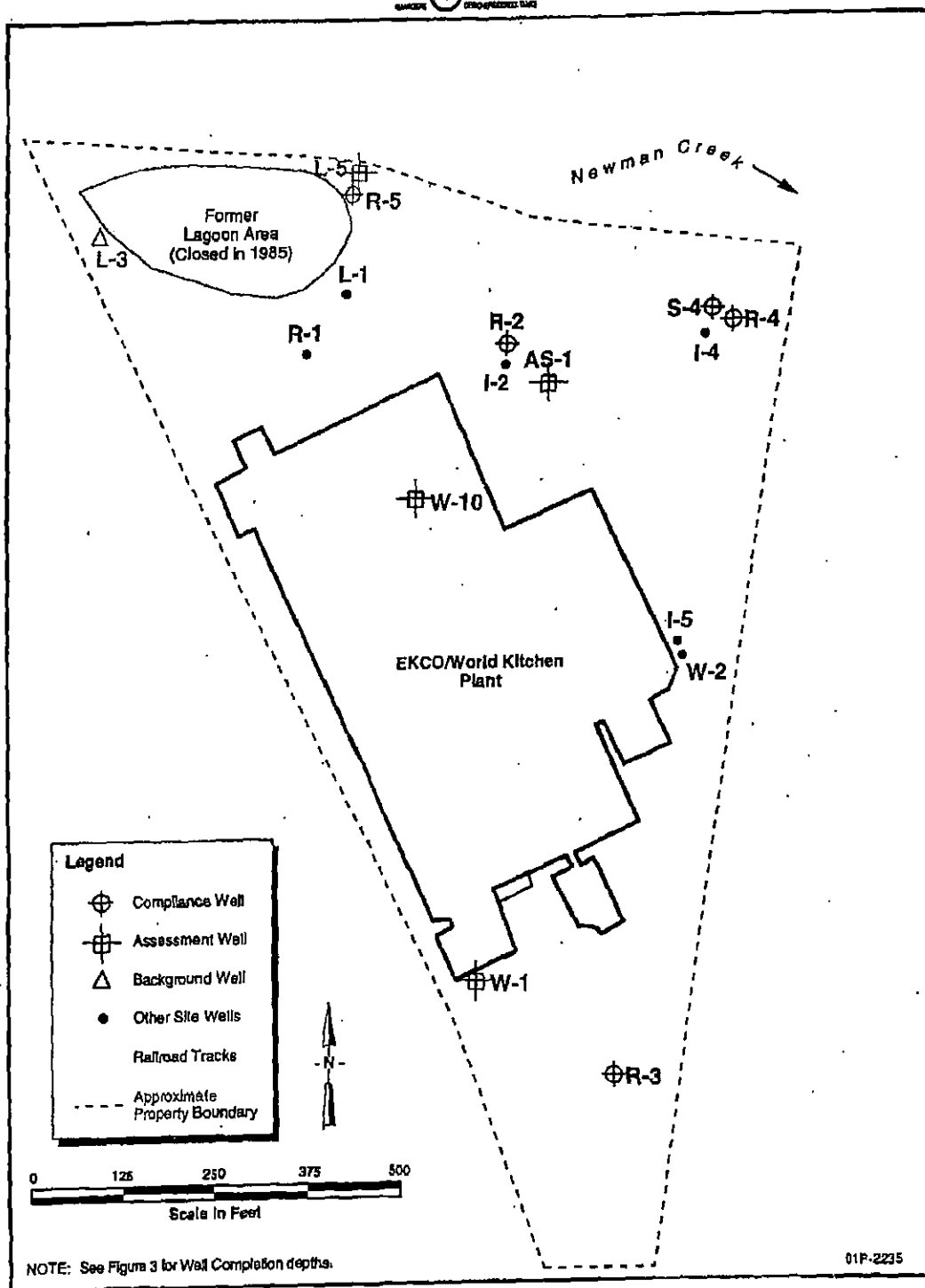


FIGURE 2 GROUNDWATER MONITORING PROGRAM BACKGROUND, ASSESSMENT, AND COMPLIANCE WELLS

IN THE MATTER OF:
World Kitchen, Inc.
359 State Avenue, Ext. N.W.
Massillon, Ohio 44648-0560
OHD 045 205 424

RCRA-05-2002-0010

DOCKET NO.

CERTIFICATE OF SERVICE


I hereby certify that today I have filed the original of this Administrative Order on Consent and this Certificate of Service in the Office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, IL 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following:

Ms. Geraldine Smith, Esq.
American Home Products Corporation
Five Giralda Farms
Madison, NJ 07940
Certified Mail #7099 3400 0000 9585 3970

Ms. Keely J. O'Bryan, Esq.
Thompson Hine
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1291
Certified Mail #7099 3400 0000 9585 4038

Dated: 22 August 2002


Mary Ann Stephen
Administrative Program Assistant
Enforcement and Compliance
Assurance Branch
United States Environmental
Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590
(312) 886-4435

REGIONAL
PROTECTION AGENCY
US ENVIRONMENTAL

02 AUG 22 P1:46

RECEIVED
REGIONAL HEARING
CLERK